

Collaborative Group Context Statement

The collaborative process has engaged the participants on several different levels: focused discussion; expert analysis and exposition; comparative analysis and structured critique; consideration of alternative proposals; and presentation of consolidated text. The participation was generally frank, and a wide range of issues was discussed. But the significant differences on the quality of water needed to protect beneficial uses, measured by electrical conductivity and sodium adsorption ratio, were not narrowed. Also, the positions of petitioners and industry on regulatory process remain significantly apart.

Essentially, petitioner's position is that current ambient water quality is harmful to beneficial use, therefore numerical standards and comprehensive permits are required to "restore" and maintain water quality. Industry does not accept numeric standards as necessary, but does concede their usefulness in a permit protocol. DEQ and industry both maintain that ambient water quality, for some periods and locations, may be degraded by CBM effluent and still protect beneficial uses.

Petitioners maintain the necessity of their original proposed numerical limits and regulatory approach. Industry has offered a proposal that accepts numerical limits as a permitting protocol. DEQ has attempted to accommodate both its needs for regulatory certainty and responsibility for water quality in several different approaches. Industry is close to the DEQ position on measurement and permitting. However, industry is close on the numerical limits only if non-degradation does not cause the threshold to drop to 50% of the numeric standard. Petitioners are close to DEQ numerical limits only if the traditional approach to non-degradation is used.

There are several external considerations that have contributed to the inability of the participants to find common ground in these matters. Judge Haddon issued a decision declaring that coal bed methane water discharges are not a pollutant. For industry, this significantly impacts voluntary limitations on discharge or regulatory process. Petitioners perceived need for absolute standards and enforcement are supported by the eventual adoption of federal TMDL standards, and by the regulatory processes being pursued by the Northern Cheyenne and Crow tribes; which actions are not subject to control or agreement by the collaborative members. The policies and actions of the State of Wyoming continue to develop, but are not shared within this group. Similarly, the applicability of non-degradation standards is outside the control of this group, but has a significant impact on both numerical limits and regulatory action.

Therefore, while the exchange of information, points of view and proposals has significantly advanced understanding for all parties, it is unlikely that agreement can be reached in a collaborative or consensual process.